

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

AARON GABRIEL MUMMERT,	:	
Petitioner	:	
	:	
v.	:	CIVIL NO. 3:CV-15-1946
	:	
	:	(Judge Conaboy)
WARDEN SCI-LAUREL HIGHLANDS,	:	
Respondent	:	

MEMORANDUM
Background

Aaron Gabriel Mummert initiated this pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 while incarcerated at the the laurel Highlands State Correctional Institution, Somerset, Pennsylvania. Petitioner subsequently notified the Court that he was transferred to the State Correctional Institution, Pittsburgh, Pennsylvania (SCI-Pittsburgh).

Petitioner challenges the legality of his April 3, 2014 conviction on charges of fleeing and attempting to elude a police officer and tampering or fabrication physical evidence following a jury trial in the Adams County Pennsylvania Court of Common Pleas. Following service of the Petition, Respondents filed an answer and memorandum of law arguing that the petition should be denied for Mummert's failure to exhaust state court remedies. See Doc. 13. They alternatively argued that Petitioner's claims lacked merit.

By Order dated July 27, 2016 Petitioner's motion requesting

leave to file an amendment to the petition was granted and his proposed amendment was accepted. See Doc. 17. A copy of the July 27, 2016 Order which was mailed to Petitioner at SCI-Pittsburgh was returned as undeliverable with a notation that Mummert had been paroled on June 2, 2016. See Doc. 18

Discussion

A habeas corpus petition may be brought by a prisoner who seeks to challenge either the fact or duration of his confinement in prison. Preiser v. Rodriguez, 411 U.S. 475 (1973), Telford v. Hepting, 980 F.2d 745, 748 (3d Cir.), cert. denied, 510 U.S. 920 (1993). Federal habeas relief is available only "where the deprivation of rights is such that it necessarily impacts the fact or length of detention." Leamer v. Fauver, 288 F.3d 532, 540 (3d Cir. 2002). Since Mummert is challenging the legality of his Adams county conviction, this matter was properly raised under § 2254.

A pro se litigant has an affirmative obligation to keep the court informed of his or her address. See M.D. Pa. Local Rule 83.18. If his or her address changes in the course of the litigation, the litigant should immediately inform the court of such change.

As discussed above, a review of the record reveals that a copy of the July 27, 2016 Order entered in this matter was returned as undeliverable. See Doc. 18. A follow up telephone call by the Clerk of Court's office to Petitioner's last known place of

incarceration revealed that Petitioner was paroled on June 2, 2016. Mummert has not advised this Court of his release from custody or his current address nor made any filings in this matter since February 12, 2016.

Mummert's failure to advise this Court of his current whereabouts indicates that he is no longer interested in pursuing his request for federal habeas corpus relief and precludes this Court from taking any further action in this matter. It is also noted that earlier in these proceedings Petitioner notified this Court of a prior change in his address.

The inability of this Court to communicate with Petitioner is solely the result of his own inaction and prevents the taking of any other sanctions. See Poulis v. State Farm, 747 F. 2d 863 (3d Cir. 1984). Since Mummert's present whereabouts are unknown, it would be a waste of judicial resources to allow this action to continue. This Court is satisfied that based on the present circumstances, dismissal of this action without prejudice for failure to prosecute is warranted. If Petitioner provides this Court with his current address within a reasonable period of time, this determination will be reconsidered. An appropriate Order will enter.

S/Richard P. Conaboy
RICHARD P. CONABOY
United States District Judge

DATED: OCTOBER 11, 2016